IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE FOURTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 11491 of 2004

Between:

Mandela Naga Surya Ranga Rao, S/o Kondal Raidu,
R/o Lock Down, Palakol, West Godavari District.

..... PETITIONER

AND

1 The Prohibition and Excise Superintendent, West Godavari at Eluru.
2 The District Collector (Excise), West Godavari at Eluru.
3 The Mandal Revenue Officer, Palakol, W.G. District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of mandamus declaring the action of the respondents in issuing attachment order dt. 24-6-2004 of the 3rd respondent as illegal, arbitrary and contrary to the judgment rendered by this Hon'ble Court in W.P.No. 9033/89 , dt. 22-1-1997 and consequently set aside the same by imposing heavy costs on respondents.

Counsel for the Petitioner:MR.POLISETTI RADHA KRISHNA

Counsel for the Respondent No.1 and 2: GP for Prohibition& Excise

Counsel for respondent No.3 : G.P. for Revenue.

The Court at the admission stage made the following ORDER:

Petitioner, who is the successful bidder of Achugatlapalem, Pedapeta and Penumadam road arrack shops in the auction held in the year 1988, became defaulter to a tune of Rs.6,37,902-60 Ps. towards excise arrears and as such his immovable properties were attached under Section 8 of A.P. Revenue Recovery Act. Basing on his counter part agreement in Form IV, the shops were resold on 02.04.1989. Questioning the same, the petitioner filed W.P.No.9033 of 1989 in this Court, which was allowed directing the authorities concerned to give reasonable opportunity to the petitioner before holding him liable for the dues. But the respondents did not give any opportunity to him and again issued order dated 24.06.2004 attaching his immovable properties. Challenging the same, the present writ petition has been filed.

In the counter-affidavit filed on behalf of the first respondent, it is stated that notice dated 25.10.2002 demanding payment of excise arrears was served on the petitioner, but he failed to pay the said amount. Another notice dated 10.07.2002 was issued to the petitioner informing him to remit the principal amount of excise arrears before 31.08.2002 under one time settlement and to get the penal interest waived off, but there is no response. Again, on 27.11.2003, another notice was issued to the petitioner directing to pay the entire principal amount before 31.03.2004. Petitioner having acknowledged the same, failed to pay the amount.

Learned counsel for the petitioner submits that the petitioner has not received the notices issued by the first respondent.

Having heard the learned counsel on either side and having perused the material available on record, it is evident that the petitioner failed to pay the excise arrears to a tune of Rs.6,37,902.60 Ps. and the first respondent gave notices calling upon him to pay the principal amount and get the interest waived off, but the petitioner did not respond to the same. If the petitioner disputes the correctness of the resultant loss assessed by the authorities concerned, he could have filed a revision and call for an enquiry into the same. Having acknowledged the receipt of notices, and having failed to avail the benefits

under G.O.Ms.No.320 Rev.(Ex-II) Department, dated 10.06.2002, the petitioner cannot claim any relief in the present writ petition.

Therefore, in my view, the writ petition fails and is accordingly dismissed. The petitioner is, however, at liberty to approach the authorities concerned for one time settlement of arrears and to get the penal interest waived off.

04.10.2004

ksld

To

1 The Prohibition and Excise Superintendent, West Godavari at Eluru.
2 The District Collector (Excise), West Godavari at Eluru.
3 The Mandal Revenue Officer, Palakol, W.G. District.

4 Two CCs to the Govt. Pleader for Prohibition & Excise, High Court

of A.P., Hyderabad (OUT).

5 Two CCs to the Govt. Pleader for Revenue, High Court of A.P.,

Hyderabad (OUT).

6 Two CD copies.